



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

46
AM
9-26-90

In re Application of J. Horoszewicz) Group Art Unit: 186
Serial No. 07/202,869)
Filed: June 3, 1988)
For: MONOCLONAL ANTIBODIES) Examiner:
TO A NEW ANTIGENIC) Paula Hutzell, Ph.D.
MARKER IN EPITHELIAL)
PROSTATIC CELLS AND)
SERUM OF PROSTATIC)
CANCER PATIENTS)
Attorney Docket No. 1101-086)

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DECLARATION OF S. LESLIE MISROCK

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

SIR:

I, S. LESLIE MISROCK, declare and state:

1. That I am the attorney of record in the captioned application in which I represent the inventor and Cytogen Corporation, present assignee of the application;
2. That, on July 6, 1990 I deposited with the American Type Culture Collection (ATCC), International Depository Authority, 12301 Parklawn Drive, Rockville, Maryland 20852, in compliance with the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure on behalf of Cytogen Corporation a culture identified as:

Hybridoma

7E11C

ATCC Designation Number

HB 10494

3. That for each cell line referred to in paragraph 2, the deposited material is the same material identified in the above-identified application as filed.

4. I hereby assure the United States Patent and Trademark Office and the public that (a) all restrictions on the availability to the public of the culture referred to in paragraph 2 will be irrevocably removed upon issuance of a United States patent of which such culture is the subject; (b) each culture will be maintained for a period of at least five years after the most recent request for the furnishing of a sample of the deposited culture was received by the ATCC and, in any case for a period of at least 30 years after the date of deposit; (c) should the deposit become non-viable it will be replaced by the Applicant; and (d) access to the culture will be available to the Commissioner during the pendency of the patent application or to one determined by the Commissioner to be entitled to such culture under 37 C.F.R. § 1.14 and 35 U.S.C. § 122.

5. Attached as Exhibit A is the deposit contract with the ATCC for hybridoma 7E11C that does conform to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure and the accompanying correspondence requesting conversion of the deposit already at the ATCC to meet the requirements of the Budapest Treaty.

6. Attached as Exhibit B is the original Safe Deposit Agreement between the ATCC and Cytogen Corp. for the initial deposits of hybridoma 7E11C as CYT-351, S.D. No. 1307 and hybridoma 9H10-A4 as CYT-368, S.D. No. 1308, which deposits were not in compliance with the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure.

I hereby declare further that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true and further I make these statements with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under § 1011 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date 9-4-90

S. Leslie Misrock

S. Leslie Misrock

CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on 9-4-90
(Date of Deposit)

Adriane Anker 32,605
(Reg. No.)

9-4-90
(Date of Signature)